

EXHIBIT I

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS

3 -----x
DARELTECH, LLC,

4 Plaintiff,

4:18-CV-00702

5 v.

6 SAMSUNG ELECTRONICS CO., LTD. and
7 SAMSUNG ELECTRONICS AMERICA, INC.,

8 Defendants.
9 -----x

10 SAMSUNG ELECTRONICS CO., LTD. and
11 SAMSUNG ELECTRONICS AMERICA, INC.,
12 Counterclaim-Plaintiffs,

13 v.

DARELTECH, LLC,

Counterclaim-Defendant.
14 -----x

15 DEPOSITION OF JUSTIN GRANT

16 New York, New York

17 Thursday, October 24, 2019
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22

23 Reported by:

Frank J. Bas, RPR

24 JOB NO. 170568
25

1 J. GRANT

2 Q. Are you familiar with the document
3 in front of you?

4 A. Yes.

5 Q. Is this a copy of your CV?

6 A. Yes.

7 Q. Could you go ahead and flip through
8 it and just make sure it's up to date for me.

9 (The witness reviews document.)

10 MR. BAITCHEV: I am sorry. And
11 just for the record, it's marked --
12 the document I handed him is marked
13 exhibit 1?

14 COURT REPORTER: Yes.

15 MR. BAITCHEV: Thank you.

16 A. It looks to be up to date.

17 Q. Could you please take a look at the
18 last page of your CV, under "Education." It
19 says that you received a Bachelor of Science
20 in marketing from University of Tampa in 2007,
21 is that correct?

22 A. It is.

23 Q. Could you please explain how one
24 gets a Bachelor in Science in marketing?

25 MR. HECHT: Objection.

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2 A. That's just what they called it.

3 Q. So do you know the difference
4 between a Bachelor of Science and a Bachelor
5 of Arts?

6 MR. HECHT: Objection.

7 A. I'm not a degree person, so you
8 would have to ask the University of Tampa.

9 Q. Maybe this might clear things up.
10 Could you please tell me about some
11 of the courses you took while getting that
12 degree? For instance, did you take any
13 classes in electrical engineering?

14 A. I did not.

15 Q. Did you take any classes in
16 computer engineering?

17 A. Computer science, yes.

18 Q. How many classes did you take in
19 computer science?

20 A. I don't remember off the top of my
21 head.

22 Q. Did you take more than one class in
23 computer science?

24 A. Yes.

25 Q. Did you take more than three

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2 classes?

3 A. I can't remember that much.

4 Q. More than five?

5 A. Probably not.

6 Q. So somewhere between one and five?

7 A. (No response.)

8 Q. Did you take foundational classes,
9 such as, you know, English, humanities, basic
10 science classes, as part of your
11 prerequisites?

12 MR. HECHT: Objection to form.

13 A. I did take prerequisite classes,
14 yes.

15 Q. Could you just detail some of those
16 prerequisite classes that you remember?

17 A. English. One was in IT, or
18 computer science. I believe one was in math.
19 And I believe one was in biology.

20 Q. One more question about the classes
21 you took. Do you remember any other classes
22 that you took that in your opinion might be
23 relevant to the scope of your expert opinion
24 today?

25 A. In college?

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2 version it had to be logged out after 30
3 minutes to stay HIPAA-compliant, and we saw
4 that as a power savings as well.

5 Q. Anything else that you saw as power
6 savings?

7 A. Not at this time.

8 Q. Anything else that you think is
9 relevant from that position to your opinion in
10 this case?

11 A. Yeah, I think all of the
12 technologies in the software and hardware
13 integration dealing with notifications to the
14 phone gave good experience to -- and
15 background so that I could better advise on
16 this case.

17 Q. You mentioned hardware. To what
18 extent did you work with hardware?

19 A. Well, the text messages that we
20 sent were from a web application and they were
21 delivered on the user's mobile device. And
22 then we had to create the screens to be
23 reactive so when the person hit the link in
24 the text message, it would open up, be
25 visually, you know, usable on the screen, and

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2 we had to code that in to be able to do that
3 and react to the screen size with different
4 graphics, like, for example, the logo, and we
5 had to code it for numerous different phones
6 and on numerous different operating systems on
7 those phones.

8 We also accessed the location from
9 the phone operating system, so we tapped into
10 the hardware on an individual's phone to get
11 their location.

12 Q. But you were not doing any
13 modifications to hardware itself?

14 MR. HECHT: Objection to form.

15 A. No. I don't believe so.

16 Q. So let's move on to FlexDev LLC.
17 What is the date range for that entry?

18 A. It's not on here, but on my
19 LinkedIn, September 2016 to present.

20 Q. So you are still working at
21 FlexDev?

22 A. Yes.

23 Q. And what is your position at
24 FlexDev?

25 A. I'm the CEO/founder. I wear all

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2 the different hats.

3 Q. You wear all the hats, okay.

4 Do you have a partner in that
5 venture?

6 A. I do not.

7 Q. So you manage both -- what does
8 FlexDev do?

9 A. It is a development firm for
10 creating applications.

11 Q. And what is your role in the
12 creation of applications?

13 A. I do everything. I manage the
14 team. I manage the engineers. I manage the
15 projects. Execute the projects. I sell
16 everything. If something has a problem, I
17 troubleshoot it. I do all the billing.
18 Basically everything that you understand in a
19 business.

20 Q. It says you have a team of 20 to 25
21 engineers at any given time. Is that correct?

22 A. I believe it says 10 to 25
23 engineers.

24 Q. I am sorry. My bad. Yes. 10 to
25 25.

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2 A. Yes. At any given time we work
3 with between 10 to 25 contract engineers,
4 depending on what projects are sold or are
5 needing to be executed.

6 Q. And are they the ones who are
7 developing the apps for clients?

8 A. Yes.

9 Q. And are you personally developing
10 any apps for clients?

11 A. I am not at this time.

12 Q. All right. Let's move on to
13 Rundown Pro.

14 Can you please tell me the date
15 range that's supposed to be for that company?
16 I know it's not reflected in your CV.

17 A. January 2018 to present.

18 Q. What's your position at Rundown?

19 A. Co-founder and CEO.

20 Q. So do you have a partner in this
21 venture?

22 A. I do.

23 Q. Just one partner or more than one?

24 A. Just one.

25 Q. What are your duties?

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2 upscaling, the specification does not
3 define upscaling, and an ordinary
4 interpretation of upscaling is
5 incompatible with replacing one display
6 element with another.

7 Q. So let's go on to the second one,
8 then. Just read both in context. Okay?
9 Could you read the second sentence out loud,
10 please?

11 A. (As read):

12 As such, Mr. Grant may provide
13 evidence regarding his opinion that a
14 POSITA would understand that the
15 applicants of the '427 and '328 patents
16 acted as their own lexicographer with
17 respect to the term mathematical
18 upscaling and related terms.

19 Q. Okay. What does it mean to act as
20 their own lexicographer?

21 A. That they are defining the term
22 "mathematical upscaling" in their own terms.

23 Q. Are you familiar with the
24 requirements to meet the lexicographer rule in
25 claim construction, sir?

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2 initially when I re-looked at this document,
3 nothing stood out right away. But I
4 referenced it for a reason.

5 Q. And what was that reason?

6 A. Give me one second.

7 (The witness reviews document.)

8 BY MR. PARK:

9 Q. Sir, the only citation to it -- or
10 the relevant citation is on page 4, or rather,
11 3 and 4. You're looking through the entire
12 document. But if you could just look at 3 and
13 4, that's what I am asking the question about.

14 A. Okay. That's helpful. I believe,
15 because this particular verbiage here is
16 relevant to --

17 Q. When you say "this particular," I'm
18 sorry, just for the record you're pointing to
19 DARELTECH_000433, right?

20 A. Correct.

21 Q. Okay.

22 A. So the underlying language here,
23 which is the interview summary, or the
24 substance of the interview as noted by the
25 examiner, was relevant because it had somewhat

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2 confusing verbiage stating (as read):

3 Turning off touch detection sensors
4 of the display screen, which are
5 incapable of receiving user input.

6 That related back to a prior
7 amendment or change that the examiner had
8 made, specifically stating that the user input
9 did indeed have power, although the screen
10 was -- although the screen was turned off for
11 power reasons, to summarize.

12 I can give you the exact language.
13 Yeah, currently amended -- so I am looking at
14 DARELTECH_0000425, number 8.

15 So the language in the interview
16 summary was a little confusing, compared to
17 what was currently amended (as read):

18 A multi-function device comprising
19 one or more processors, a display screen
20 and -- underlined, and associated
21 sensors.

22 Because the display screen and the
23 associated sensors are two separate items,
24 components, I'll call them, and as a POSITA
25 would read this, those items are complementary

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2 to each other, but although the display screen
3 is off, the user input would still be able to
4 be collected, and a POSITA would say it should
5 be -- it should continue to be collected,
6 although the display screen is off for data
7 purposes and receiving user input, but may
8 not -- you may not respond to it. Or let's
9 say, for example, turn the screen on.

10 Q. Are you done, sir?

11 A. Yes.

12 Q. Okay. So I don't understand what
13 you say is confusing between the two.

14 A. I think the exact verbiage is
15 confusing, because if you were to turn -- it
16 says "corresponding independent claims to
17 recite turning off touch detection sensors of
18 the display."

19 So potentially implied that those
20 may be the same thing.

21 Whereas the touch sensors are, from
22 a POSITA perspective, 100 percent separate
23 from the display screen. And the display
24 screen would never be able to get user input,
25 whereas the touch sensors are what receive

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2 that user input. Therefore, the display
3 screen was what would be turned off for power
4 management in the context of the patent,
5 whereas the -- turning off the power to the --
6 like the touch detection sensors, would not
7 only minimally save you a little bit of power,
8 it also would not be of interest from a POSITA
9 perspective because in general you want to
10 collect as much user data as possible. And
11 doing that via the touch sensors, although the
12 display has been turned off for power
13 management reasons, would still be
14 advantageous to collect that data from the
15 user.

16 Does that make sense?

17 Q. Not really. I thought -- not
18 really.

19 So let me try to ask a question
20 that maybe you can give a more cogent answer
21 to.

22 So when it says incapable of
23 receiving -- well, let me take a step back.
24 Let's make sure we agree on what we agree on,
25 which is if you turn off the touch sensors,

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2 on that specific question.

3 Q. Do you know now? Apart from having
4 an opinion, do you know? Based on your years
5 of experience and what you say qualifies you
6 as a POSITA do you know, sitting here?

7 A. Do I know what specifically?

8 Q. Whether it is possible to turn off
9 associated sensors, sensors associated with
10 the display, for part of the display?

11 A. I would have to take time and
12 research if that's possible, because I
13 haven't -- I have not thought about that
14 scenario specifically for this.

15 Q. Okay. So your construction of
16 "incapable of receiving input," do you see
17 that, which is on page 5?

18 A. I see it, yes.

19 Q. And do you see the construction in
20 page 4 of the term that includes "incapable of
21 receiving user input"? Do you see that?

22 A. I see the claim term on page 4 and
23 5, yes.

24 Q. So do you believe that the term
25 "incapable of receiving user input" when

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2 somehow used separately should be construed
3 differently from when it's used in the phrase
4 above?

5 A. I think it should say exactly what
6 it says there.

7 Q. So it should have two different
8 definitions, right?

9 A. As the constructions state here, I
10 constructed them in a different way.

11 Q. Why?

12 A. Because that's how a POSITA would
13 understand it --

14 Q. Why?

15 A. -- in the context of the patent.

16 Q. Let me put it a different way.

17 What evidence would you give to the
18 Court to say that they should be construed
19 differently?

20 A. All of the evidence on page 4
21 and 5, listed under the plaintiff's evidence,
22 intrinsic and extrinsic, as well as the patent
23 and file history.

24 Q. Okay. So nothing specific, no
25 reasoning stands out in particular? The Court